INSPECTION DATE: 8/18/2020 REPORT DATE: 9/21/2020 MEETING DATE: 10/08/2020

#### **APPLICANT INFORMATION**

**APPLICANT NAME:** Greg Ostrowski

**APPLICANT ADDRESS:** 1023 20<sup>th</sup> Ave SE, Minneapolis, MN 55414

**OWNER NAME:** Allete Inc.

SITE ADDRESS: 3312 North Alden Lake Rd, Duluth, MN 55803

**LEGAL DESCRIPTION:** LOT 21, BLOCK 1, NORTH STAR LAKES, S20, T53N, R13W (North Star)

PARCEL IDENTIFICATION NUMBER (PIN): 488-0290-00210

**VARIANCE REQUEST:** The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow a dwelling to be replaced at a reduced shoreline setback where 100 feet is required.

**PROPOSAL DETAILS:** The applicant is proposing to remove an existing 762 square foot nonconforming dwelling that is 40 feet from Alden Lake and replace it with a 1,680 square foot dwelling with an attached garage 50 feet from Alden Lake.

#### PARCEL AND SITE INFORMATION

ROAD ACCESS NAME/NUMBER: Alden Lake Rd N ROAD FUNCTIONAL CLASS: Private

LAKE NAME: Alden Lake

LAKE CLASSIFICATION: RD

RIVER NAME: Cloquet River RIVER CLASSIFICATION: Primitive (PRI)

**DESCRIPTION OF DEVELOPMENT ON PARCEL:** There is currently a principal dwelling and a few small

accessory structures on the parcel.

**ZONE DISTRCT:** SMU 7

PARCEL ACREAGE: 3.0 ACRES LOT WIDTH: 210 FEET

FEET OF ROAD FRONTAGE: N/A FEET OF SHORELINE FRONTAGE: 205 FEET

VARIANCE

1

#### PARCEL AND SITE INFORMATION

**VEGETATIVE COVER/SCREENING:** There is good vegetative screening from the adjacent parcel. There is some vegetative screening from the lake.

**TOPOGRAPHY:** The property is fairly flat with approximately eight feet of slope down to the shoreline from the proposed building area.

**FLOODPLAIN ISSUES:** The parcel does contain floodplain. Per the DNR, the RFPE in this area is 1,402.9 NAVD88.

**WETLAND ISSUES:** A wetland delineation was done on the parcel which states that the parcel contains 75,106 square feet of wetland. A max of a 400 square foot de minimis exemption could be allowed for a conforming structure.

**ADDITIONAL COMMENTS ON PARCEL:** This property is a leased lot that was recently platted by MN Power/Allete, Inc. Had this property not already been developed, it likely would not have been suitable for development as a standalone lot.

#### **FACTS AND FINDINGS**

#### A. Official Controls:

- 1. Alden Lake is classified as a Recreation Development Lake.
  - a. St. Louis County Zoning Ordinance 62, Article III, Section 3.4 requires a minimum 100 foot shoreline setback for Recreation Development Lakes and the Shore Impact Zone is 50 feet.
  - b. The applicant is proposing a replacement dwelling 50 feet from the shoreline.
- 2. The Cloquet River is classified as a Primitive River.
  - a. St. Louis County Zoning Ordinance 62, Article III, Section 3.4 requires a minimum of 300 feet shoreline setback for Primitive Rivers.
- 3. The property falls within the Forest and Agriculture future land use category in the St. Louis County Comprehensive Land Use Plan.
- 4. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
- 5. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applications are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
- 6. Objective LU-3.3 is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statute 394.22 Subd. 10.

#### **B. Practical Difficulty:**

- 1. Buildable area on the parcel is limited due to wetlands and minimum setback requirements.
  - a. Approximately 56 percent of the parcel is wetland.
  - b. Alden Lake requires a 100 foot shoreline setback.
  - c. The Cloquet River requires a 300 foot setback.
  - d. The SMU-7 zone district requires a 20 foot property line setback for principal structures.
- 2. The parcel does contain a small area suitable for a structure, this is area that meets setbacks and is not wetland.
  - a. Alternative: Construct a dwelling within the suitable area that meets Wetland Conservation Act requirements and meets FEMA standards.

- i. A dwelling that is elevated on piers, meets setbacks, and impacts no more than 400 square feet of wetland, could potentially be allowed with a land use permit.
- 3. Other alternatives that increase the shoreline setback, but still require variance are:
  - a. Construct a dwelling in the area that is suitable for development and construct an accessory structure in the rear portion of the property closer to the Cloquet River.
    - i. This would require a variance for the structure to be located at a reduced river setback where 300 feet is required.
  - b. Construct a dwelling/garage combination with living space above the garage in the suitable area that meets Wetland Conservation Act requirements and meets FEMA standards.
    - i. The structure may not be able to meet the required shoreline setback because of FEMA floodplain and the Wetland Conservation Act requirements.
    - ii. The setback could be maximized to the greatest extent possible.
- 4. All development would be required to meet FEMA floodplain and Wetland Conservation Act requirements.
  - a. The applicant is proposing the dwelling on a slab. However, if it is determined that construction on piers is the only way to meet FEMA standards and Wetland Conservation Act requirements, the height of the proposed dwelling will be greater than currently proposed.
- 5. The applicant did work with staff to change their original proposal from a replacement dwelling in the same location to moving the structure outside of the shore impact zone. A survey and wetland delineation was also obtained by the applicant.

#### C. Essential Character of the Locality:

- 1. The applicant is not proposing a new use to the area as there are other residential properties in area.
- 2. The North Star Lakes Tracts was platted in 2018.
  - a. These lots were once MN Power lease lots. This lot was platted with limited buildable area.
- 3. There have been no similar variances in the North Star Lakes Tracts Plat.

#### D. Other Factor(s):

- 1. A maximum of 400 square feet of wetland impact may be allowed through an exemption in the Wetland Conservation Act.
- 2. Any structure on this parcel will need to meet FEMA standards for floodplain.
  - a. In order to meet FEMA standards, structures may need to be elevated on fill. The fill needs to extend a minimum of 15 feet from the outer dimensions of the structure. This could result in additional wetland impacts, if the structure is located near the wetlands.
  - b. Any development that resulted in wetland impacts in excess of 400 square feet would likely not meet the approval criteria under the Wetland Conservation Act.
  - c. If the dwelling were built on piers with the first floor meeting the required floodplain elevation, it would eliminate the need for some fill. This may allow the proposal to meet floodplain and wetland requirements.
- 3. The development potential of the property is very limited due to the amount of wetlands and the floodplain on the property.
  - a. There is currently a dwelling on the property. The property could be considered suitable for development for only one small structure, and not to the extent that is being proposed.
  - b. The property currently does not have a garage. A proposal without a garage would open up options for a dwelling to be close to, if not conforming.

NOTE TO PLANNERS-Add as attachments: 1. Zoning/location map 2. Air photo 3. Site sketch 4. Project picture (if applicable) 5. Other pertinent pictures or maps

#### **BOARD OF ADJUSTMENT CRITERIA FOR APPROVAL OF A VARIANCE**

- 1. Is the variance request in harmony with the general purpose and intent of official controls?
- 2. Has a practical difficulty been demonstrated in complying with the official controls?
- 3. Will the variance alter the essential character of the locality?
- 4. What, if any, other factors should be taken into consideration on this case?

#### **RECOMMENDED CONDITIONS, IF APPROVED**

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow a dwelling to be replaced at a reduced shoreline setback where 100 feet is required, the following condition(s) shall apply:

- 1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim, and roof.
- 2. The stormwater runoff from the proposed structure shall not discharge directly into the lake or onto adjacent parcels
- 3. The structure shall meet St. Louis County Floodplain Ordinance 43 and FEMA floodplain standards.
- 4. The total wetland impacts on the property shall not exceed the de minimis exemption allowed per MN Rule Chapter 8420.0420 Subp. 8.
- 5. The shoreline setback shall be maximized to the greatest extent possible, and shall be no closer than 50 feet from the shoreline.
- 6. All SSTS sewage treatment standards shall be met.

# ST. LOUIS COUNTY, MN PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

**Duluth** Virginia

Government Services Center Northland Office Center 320 West 2nd Street, Suite 301 307 First Street South, Suite

117

Duluth, MN 55802 Virginia, MN 55792 (218) 725-5000 (218) 749-7103

#### **VARIANCE REQUEST PERMIT APPLICATION**

**General** - This application is used to apply for a Land Use Permit. Applicants will need to attach the appropriate worksheet(s) in order to process. Incomplete applications will be returned. Note that the 'clock' does not begin until after payment has been processed for the application. For more information, see our website at:

www.stlouiscountymn.gov/BuildingStructures

Enter the Primary PIN and Associated PIN (if applicable) of the property to be reviewed.

PIN is found on your Property Tax StatementFor example, 123-1234-12345. Primary PIN: Parcel where Structure/SSTS are located. Associated PIN: Additional and/or adjacent property that you own or that is related to the project.

County Land Explorer: <a href="http://gis.stlouiscountymn.gov/planningflexviewers/County\_Explorer">http://gis.stlouiscountymn.gov/planningflexviewers/County\_Explorer</a>

Property Lookup: <a href="http://apps.stlouiscountymn.gov/auditor/parcelInfo2005Ifram">http://apps.stlouiscountymn.gov/auditor/parcelInfo2005Ifram</a>

Primary PIN **488-0290-00210** 

Associated PINs

#### Is this application being submitted for a Rehearing?

If this application is being submitted because a previous Variance Permit application was denied or disapproved, please select Yes.

#### No

**Enter Applicant Information** 

I am a: Other

Applicant Name: Greg Ostrowski
Address Line 1: 1023 20th Ave SE

Address Line 2: --

City: Minneapolis

State: **MN** Zip: **55414** 

Primary Phone: **(612)991-7752** 

Cell Phone: --Fax: ---

Email: ostro031@umn.edu
Contact Person Name: Greg Ostrowski
Contact Person Phone: (612)991-7752

Mailing Address Information.

This address can default from the address you selected of the values defaulted are not correct, please enter the correct information.

Same as Applicant

address?

No

Name: **Greg Ostrowski**Address: **1023 20th Ave SE** 

City: **Minneapolis** 

State/Province: MN 55414 Zip:

Primary Phone: Cell Phone: Fax:

Email: ostro031@umn.edu

Site Information

If there is no site address, the application will be forwarded to 911/Communications to assign one.

Is there a site address

Yes

for this property?

Leased From?

Site Address: 3312 North Alden Lake Rd Duluth Mn

55803

Is this leased property? Yes

**MN Power** 

**US Forest Service** 

**US Forest Service** Superior National Forest

8901 Grand Avenue Place Duluth, MN 55808

**MN Power** MN Power

Shore Land Traditions 30 West Superior Street Duluth, MN 55802

MN DNR, Area Hydrologist

MN DNR, Area Hydrologist

7979 Highway 37 Eveleth, MN 55734

**MN DNR Land and Minerals** 

MN DNR Land and Minerals 1201 East Highway 2 Grand Rapids, MN 55744

St. Louis County - Duluth

St. Louis County - Duluth Government Services Center 320 West 2nd Street, Suite 301

Duluth, MN 55802 (218) 725-5000

St. Louis County - Virginia

St. Louis County - Virginia Northland Office Center

307 First Street South, Suite 117

Virginia, MN 55792 (218) 749-7103

Do you have written authorization from the leased property owner?

If Yes, you must attach written authorization form.

Yes

How is the property accessed?

No

**Private Road** 

No

No

No

Enter Project Information.

If you answered 'Yes' to any of the questions below, it is required that you submit a copy of a septic permit to construct or certificate of compliance approximate or municipal/sanitary district approval when applying for a land use permit.

Is this project on a parcel less than 2.5 acres?

Yes

Is this project within 300 feet of a stream/river or 1,000 feet of a lake?

Yes

Is this project adding a bedroom?

Include home, garage, and accessory dwelling.

No

Total # of bedrooms on property after project completion.

3

Does this project include plumbing or pressurized water in proposed structure?

Yes

If Yes, please explain:

SSTS Construction Permit Application attached #2

Is this project connected to a municipal or sanitary district system?

No

#### **VARIANCE REQUEST WORKSHEET**

A variance allows the use of property in a manner otherwise forbidden by a zoning ordinance by varying one or more of the performance standards such as lot size, setbacks, etc. Variances from official zoning controls are defined under Minnesota Statutes 394.27 and require the landowner to prove that the property could not otherwise be used or enjoyed in the proposed way by complying with ordinance requirements and that there will be no negative impact on surrounding properties.

It is advisable that you discuss your request with Planning and Community Development staff prior to submitting the application. Approval or denial of your request is dependent on the justification you provide in answering the questions on this application. For more information, please check our website at: <a href="https://www.stlouiscountymn.gov/VarianceRequired">www.stlouiscountymn.gov/VarianceRequired</a>

#### **VARIANCE REQUEST INFORMATION**

Complete this form along with the Land Use Permit Application

#### What kind of variance request is this?

If this is a Variance After the Fact, you must answer additional questions below.

#### **Variance Request**

Describe what you are varying from and the situation that makes it difficult to comply with county ordinances.

If your proposal includes a structure, please

If your proposal includes a structure, please also list the length, width and height of the structure.

The Lakeshore cabin I lease from Minnesota Power at 3312 North Alden Lake Road Duluth Minnesota

55803 has a 44 ft setback from Alden Lake (per the Alta Survey map that has been attached) The county ordinance is now a 100 foot setback. I am applying for a variance to build a new Cabin with an attached garage. (Total foot print = 28' by 60') with a 50 foot setback. (length=32 cabin+28 garage feet, width= 28 feet, height=22 feet) that is 25 feet from the west property line. After working with St. Louis county, My contractors have concluded this is the only place on the property to build that will meet wetland and FEMA requirements. With a finished floor elevation benchmark of 1,402.90 feet. 3.8 feet higher than the present cabin = 1,399.10 (top of water elevation of 1,393 feet). The attached land survey map prepared by Dave Evanson of Alta Survey incorporates (Kiff Samuelson's of Finite Earth ) wetland delineation and FEMA 100 year flood plain information. This structure's location and elevation will meet the Wetland Conservation Act (WCA) requirements and FEMA and St. Louis County floodplain standards.

Describe the intended/planned use of the property.

Lakeshore Cabin with an attached garage 50 foot setback with running water and septic system.

Describe the current use of your property.

Lakeshore Cabin 44 feet setback, with outside pump and outhouse 75 feet setback.

Describe other alternatives, if any.

#### NA

If approved, how will the proposed use, with the variance, fit into the character of the neighborhood/area?

The cabins will all be similar along this side of the Alden Lake.

Describe how neighboring properties and the use of those properties will be impacted by the proposed use with the variance.

There will be no impact to neighboring properties.

Describe how negative impact to the local environment and landscape will be avoided.

My leased property has two Individual Sewage Treatment System (ISTS) inspection complaints ID No. 34284 and 34285. (the systems causing the complaint were present when I signed my first lease) and will be replaced by a working septic system. By following the land survey map, I have place my planned structure in the only available location on the property that complies with the Wetland Conservation Act (WCA) and FEMA 100 year flood plan standards.

Describe the expected benefits of a variance to use of this property.

The ability to build a modern Lakeshore cabin with an attached garage that has a septic system and also increased room for activities.

Include additional comments that will clarify your request for the Planning and Community Development staff members and the Board of Adjustment.

I sent an email asking St.LouisCnty to respond to my delineation report and whether i needed a request for variance. The response stated: If you have questions, please let me know. I can send the correct applications to you once you determine the route you want to go. Pursuing a variance is the longest process and is not guaranteed to get approved. If performance standard or land use permit criteria can be met, those permits are issued over-the-counter. Thank you for getting the wetland delineation completed as it is important information in determining the next steps and available options. If you ultimately pursue a variance, the Board of Adjustment will be able to make a more informed decision with this information as well.

IF YOU ARE RESPONDING TO A PERMIT VIOLATION, PLEASE ANSWER THESE ADDITIONAL QUESTIONS

Describe your reasons county zoning ordinance requirements were not followed.

The two violations were because the cabin had been in active use for thirty some

years and were not violations when the cabin was originally built.

Describe your effort to comply with the ordinance and to obtain a land use permit and/or other required permits.

I have spent \$850.00 on a Delineation report from Finite Earth to comply with Wetland and FEMA requirements. \$3,750.00 on a land survey map showing property boundaries and property elevation including all information from the delineation report and \$630.00 for the variance permit application.

Describe any substantial investments, construction and/or repairs made to the property before you discovered you needed a variance.

No other substantial investment (please see above response), I have been waiting for the permits before my builder and septic system guys get working. (Ward Poppenberg and Tom Rovinsky) Alete Inc. (Minnesota Power's) Matthew Hagelin Property and Right of Way agent has been trying to sell me this property for over a year, because they are getting out of the land lease business. Matt told me specifically relating to my Cabin's lease, that MnPower replatted the property lines with the intention of adding to this property enough build-able land to have a septic system and garage to make the property more salable). I am one of the 10% who have not purchased their leased cabin property for the first Three lake area leased property put for sale. I wanted to wait and be assured the permits would available (to upgrade the property) before I purchase the land.

If there was construction or repair, on what date did it begin? What date did it end?

Start Date -End Date --

Who performed the construction or repair work?

--

Was a survey of your property boundaries obtained?

#### Yes

Prior to the construction or repair work, did you speak with anyone from the Planning and Community Development Department?

By submitting this application, I certify and agree that I am the owner or the authorized agent of the owner of the above property, and that all uses will conform to the provisions of St. Louis County. I further certify and agree that I will comply with all conditions imposed in connection with the approval of the application. Applicants may be required to submit

additional property descriptions, property surveys, site plans, building plans, and other information before the application is accepted or approved. *Intentional or unintentional falsification of this application or any attachments thereto will make the application, any approval of the application and any result invalidional.* authorize St. Louis County staff to inspect the property to review the application and for compliance inspections. Furthermore, by submitting this application, I release St. Louis County and its employees from any and all liability and claims for damages to person or property in any manner or form that may arise from the approval of the application or any related plans, the issuance of any resulting permit or the subsequent location, construction, alteration, repair, extension, operation or maintenance of the subject matter of the application.

If your name, contact information or email address have changed, you should update your contact information in the poly selecting 'Maintain Contact Information' at the top of this page.

Submitted By: Greg Ostrowski
Address: 1023 20th Ave SE

City: Minneapolis

State: MN
Postal Code: 55414

Email Address: ostro031@umn.edu

I have read and agree to the statement above.

I agree

### **Construction & Earthwork Request Form**

Rent Due: \$0.00 Taxes Due: \$0.00

You should note that completion of this form and your proposed construction request are both governed by the terms of your Lease.

\*In the event Minnesota Power grants approval for construction and/or earthwork, the responsibility remains with the applicant/leaseholder to obtain local, State, and/or Federal, authorizations or permits as required by law and to comply with building codes and ordinances.

# CONSTRUCTION & EARTHWORK REQUEST UPON MINNESOTA POWER LEASED PROPERTY

MP Lot No.: STLO05313202601 County Parcel No.: 488600031100

Account No.: 5078200000 MP Map Number: MB-17545

Gregory P. Ostrowski

Site Address: 3312 N Alden Lake Rd.

1023 20th Ave Minneapolis, MN 55414 Telephone: Home: (612)991-7752

Work: Cell:

**Township: North Star** 

Email: OSTRO031@UMN.EDU

Minnesota Power Parcel Number 01, in that portion of Govt. Lot 10, Section 20, Township 053 North, Range 13 West, Alden Lake, St Louis County, Minnesota.

1.	Requested by:	Greg Ostrowski		9/10/20	
		Ostrowski, Gregory P.		Date	
2.	Preliminary Approval* to Seek Governmental Permits:	Gel Helmer		9/11/2020	
		Minnesota Power		Date	
3.	Approved by:	County, Township, MN DNR or other Agency	<del>y</del> -	Date	
4.	Final Construction Approval*:	Minnesota Power		Date	
5.	Authorization for Work Under t	his Permit Expires On:	-	Date	
OF	FICE USE ONLY				
Pro	pject New home w/ garage;	variance needed In	nitial _	JH	
0/40/0000			nitial	JH	
	tes				

### Site sketch requirements

#### Purpose, description and dimensions of project

Describe whether your project will involve any of the following:

- Construction of structure(s), dumping, filling or removing of earthen material, drilling, draining, excavating, install or repair.
- Excavating, dredging or discharging (placing fill material) into a wetland or other water body (including the temporary placement of material). If so, explain the specific purpose of the placement of the material (such as erosion control) and indicate how it will be done (such as with a backhoe or dragline). If dredged material is to be discharged on an upland site, identify the location of the site.
- Construction of an access path, bridge, culvert, dam, ditch, dock, driveway, riprap, road, sand blanket, or shore protection.
- If requesting permission for pole building construction, please include height and color of building, in addition to the length and width dimensions.

#### Include the following in a sketch of project

- 1. Draw lot boundaries with all dimensions
- 2. Draw roads with names and any lakes/rivers etc.
- 3. Draw and identify existing structures and structure dimensions (if any)
- 4. Draw and identify location of proposed construction including dimensions
- 5. Draw and identify driveways and all property accesses
- 6. Identify distances of existing and proposed construction/structures from the shoreline, side yard far, side yard near, and road center line
- Draw and identify existing or proposed septic location and future expansion area
- 8. Draw and name any drinking water well locations and dimensions from any septic systems (including neighbors)
- 9. Identify existing power poles, overhead power lines and the name of the utility provider that said power poles and lines belong to
- 10. Identify existing and proposed fencing, berms or other natural barriers
- 11. Identify setbacks for all structures (sides, rear and shore)
- 12. Show erosion/sediment control measures (if any)

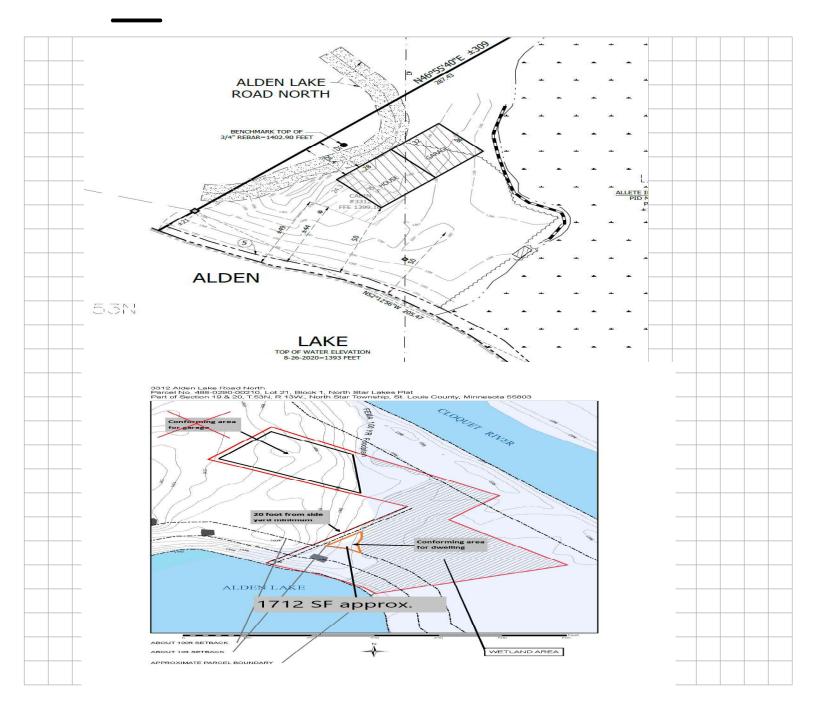
#### Contractor contact information

Contractor (company) name	Ward Poppenberg	Contact (person) name		Ward Poppemberg		
		ne		ward.poppenberg@gmail.com		
Detailed explanatio	n of construction pl	ans				
State what you propose to do Build a House with an attached	•	60') 50' back from	n Alden Lake aı	nd 25' back from Property Line (please		
see below land survey document.	) With a finished floor elevation b	enchmark of 1,40	02.90 feet. (top o	of water elevation of 1,393 feet.)		
This land survey map prepared	by Dave Evanson of Alta Survey i	ncorporates Kiff	Samuelson's of	Finite Earth Wetland delineation and F		
	on. (please see below delineation n nd Conservation Act (WCA) requ			Louis County Planning Department is County floodplain standards.		
this structure meets the vvenar						

## Site sketch

### **Project setbacks**





Name Greg Ostrowski

Project New cabin and attached garage constructions Cale

(Example: 1 inch = 100 feet)

